

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **James A Holmes v Karen M Roman-Holmes**
Docket No. **282103**
L.C. No. **97-005874-DM**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10), orders:

The claim of appeal filed on November 16, 2007, is DISMISSED for lack of jurisdiction because it was not filed within 21 days of the October 12, 2007 order that changed custody to the plaintiff as required by MCR 7.204(A)(1)(a). It was that order that determined custody, not the order of October 26, 2007. Furthermore, the motion for stay did not toll the time period for filing the claim of appeal from the October 12, 2007 order as a motion for stay does not particularly challenge the merits of the earlier decision. Even though MCR 7.204(A)(1)(b) does contain the phrase "other postjudgment relief" it has to be read in conjunction with the earlier language that all involve the challenge to the merits of the order being appealed. Any appeal must be by application for leave to appeal under MCR 7.205.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

DEC 12 2007

Date

Sandra Schultz Mengel
Chief Clerk